

Davis, Cohen and Durbin Introduce Legislation to Restore Fairness in Student Lending

Congressmen Danny K. Davis and Steve Cohen Join Senator Richard Durbin Introducing Legislation to Restore Fairness in Student Lending

Bill will make private student loans dischargeable in bankruptcy

For immediate release

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[WASHINGTON, D.C.] — Congressmen Danny K. Davis and Steve Cohen today joined U.S. Senators Dick Durbin (D-IL), Sheldon Whitehouse (D-RI) and Al Franken (D-MN) to introduce legislation in both the Senate and the House that will restore fairness in student lending by treating privately issued student loans in bankruptcy the same as other types of private debt.

Before changes were made to the bankruptcy code in 2005, only government issued or guaranteed student loans were protected during bankruptcy. This protection has been in place since 1978 and was intended to safeguard federal investments in higher education. Today's bill would restore the bankruptcy law, as it pertains to private student loans, to the language that was in place before 2005, so that privately issued student loans will once again be dischargeable in bankruptcy.

"The high interest rates on private student loans have made them incredibly profitable for loan companies and saddled students with crushing debt," said Durbin. "Two weeks ago, Congress ended a \$6 billion subsidy to banks and companies, like Sallie Mae, which reaped the benefit of student loans while taxpayers assumed all the risk. Today's bill takes an additional step toward restoring fairness in student lending, by placing student loan companies in the same position as virtually all other private lenders." Durbin first introduced this legislation in June 2007.

"People who seek higher education to better their futures should not be dissuaded from doing so by the threat of financial ruin," said Cohen. "The bankruptcy system should work as a safety net that allows people to get the education they want with the assurance that, should their finances come under strain by layoffs, accidents, or other unforeseen life events, they will be protected. My bill takes a modest but important step in achieving this goal." Congressman Cohen held a hearing on the dischargeability of student loan debt in bankruptcy in September 2009. He is a longtime advocate of making a higher education

more affordable and accessible, most notably through the establishment of the Tennessee Lottery.

For the past decade, private student loans have been the fastest growing and most profitable part of the student loan industry. According to the College Board, roughly 15% of total student borrowing is in private student loans. Ten years ago, only 5% of total education loan volume was in private loans. The interest rates and fees on private loans can be as onerous as credit cards. There are reports of private loans with interest rates of at least 15% and higher rates are not unheard of. This can place a tremendous burden on student borrowers with private loans and unlike federal student loans, there is no government-imposed loan limit on private loans and no public regulation over the terms and cost of these loans.

“By repealing special treatment for private lenders, we will hold big banks accountable, protect young people from abusive lending practices, and make college more affordable,” said Whitehouse.

“In this economy, we want to be encouraging people to invest in their education and their future,” said Franken. “That’s why it is more important than ever for people to be able to get a fresh start after financial problems related to private student loans.”

“The 2005 bankruptcy restrictions penalize borrowers for pursuing higher education, provide no incentive to private lenders to lend responsibly, and likely affect African American borrowers more negatively than other borrowers,” said Davis. “I am proud to join with my colleagues to ensure that our statutes do not unintentionally burden particular groups of people. Private education debt is no different than other consumer debt; it involves private profit and deserves no privileged treatment. I will work actively with Senator Durbin and Congressman Cohen to protect student borrowers.”

Private loans involve only private profit and do not have the protections that government borrowers enjoy, including caps on interest rates, flexible repayment options, and limited cancellation rights.

There are very few types of debts that the bankruptcy law subjects to a different standard, allowing for discharge in only the most extreme circumstances. For example, the bankruptcy code makes it especially difficult for people to escape child support responsibilities, overdue taxes, and criminal fines. Privately issued student loans should not be on that list.

Today’s legislation is supported by the Institute for College Access and Success (TICAS) and the National Consumer Law Center.